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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
LE, JOHN H	

ART UNIT	PAPER NUMBER
2863	

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/789,188	HANEBUTTE, ULF R.	
	Examiner	Art Unit	
	John H. Le	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

1. This office action is in response to applicant's amendment received on 03/27/2006.

Claim 28 has been amended.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-24 and 29-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 1, claim appears to an abstract idea rather than practical application of the idea. Claim 1 does not result in a physical transformation nor does it appear to provide a useful, concrete and tangible result. Therefore, claim 1 appears non-statutory.

Regarding claim 13, it appears to be directed to collecting power data itself rather than a practical application of collecting power data in the real world. The power data is collected, but there is no final step of using the power data in any way or making the collecting power data available for use in a meaningful way (e.g., in some instances, if it was conveyed to someone or stored for retrieval or display, that would establish a tangible result). Thus, the claim appears to lack a tangible result. Therefore, claim 13 appears non-statutory.

Regarding claim 18, claim appears to an abstract idea rather than practical application of the idea. Claim 18 does not result in a physical

transformation nor does it appear to provide a useful, concrete and tangible result. Furthermore, the article is non-statutory. Therefore, claim 18 appears non-statutory.

Regarding claim 29, claim appears to an abstract idea rather than practical application of the idea. Claim 29 does not result in a physical transformation nor does it appear to provide a useful, concrete and tangible result. Therefore, claim 29 appears non-statutory.

Claims 2-12, 14-17, 19-24, and 30 are rejected under 35 U.S.C. 101 base on dependency.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 25 is rejected under 35 U.S.C. 102(e) as being anticipated by Thelander et al. (US 2003/0009705).

Regarding claim 25, Thelander et al. disclose a power evaluation unit comprising: a data retriever unit (client service process 305) to retrieve power data (e.g. [0061]) from an operating system (301) by a battery (e.g. [0061], [0083], computer 205 is operating from battery power); and a data processor unit

(microcontroller) to determine a net power consumption of an application from the power data (e.g. [0060]).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-2, 4-7, 18-19, 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thelander et al. (US 2003/0009705) in view of Potega (US 2003/0085621).

Regarding claims 1, 18, Thelander et al. disclose a method for managing power data ([0008]), comprising: determining an amount of power used by a system running an application over a first time period from an operating system (e.g. [0056], [0058]-[0060]); determining an amount of power used by the system in a baseline state over a second time period from the operating system (e.g. [0056], [0058]-[0060], [0093]); and determining a net power consumption of the application from the amount of power used for the system running the application and the amount of power used by the system in the baseline state (e.g. [0056], [0093]).

Thelander et al. fail to disclose determining an amount of power used by a system running an application over the time period from power data supplied to an operating system by a battery over the time period.

Potega teaches steps of determining an amount of power used by a system running an application over the time period from power data supplied to an operating system by a battery over the time period (computer running power management software monitors status of battery and control power supplied, [282]-[285], [183]-187]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to inform steps of determining an amount of power used by a system running an application over the time period from power data supplied to an operating system by a battery over the time period as taught by Potega in a method for managing power data of Thelander et al. for the purpose of providing a intelligent power supplly (Potega, [0081]).

Regarding claim 2, Thelander et al. teach subtracting a power capacity value of a battery at an end of the first time period from a power capacity value of the battery at a beginning of the first time period (e.g. Fig.4, [0044]-[0045]).

Regarding claim 4, Thelander et al. teach determining the amount of power used by the system in the baseline state comprises subtracting a power capacity value of a battery at an end of the second time period from the power capacity value of the battery at a beginning of the second time period (e.g. Fig.15, [0093]).

Regarding claim 5, Thelander et al. teach determining the amount of power used by the system in the baseline state comprises integrating a drain rate of the battery over the second time period (e.g. Fig.4, [0044]-[0045]).

Regarding claim 6, Thelander et al. teach determining the net power consumption of the application comprises subtracting the amount of power used by the system in the baseline state over the time period from the amount of power used by the system running the application over the time period (e.g. Fig.4, [0044]-[0045]).

Regarding claims 7, 19, Thelander et al. teach determining the net power consumption of the application comprises computing a first net power value using power capacity data and a second net power data using drain rate data (e.g. Fig.4, [0044]-[0045]).

Regarding claim 26, Potega discloses the power data comprises power capacity (e.g. [0149]) and drain rate data from a battery (e.g. [0186]).

Regarding claim 27, Potega discloses a data evaluation unit to determine a systematic error associated with a run-time for the power data (e.g. [0118]).

Regarding claim 28, Potega discloses the data evaluation unit determines a new run-time that reduces the systematic error (e.g. [0489]).

Regarding claim 29, Potega discloses a method for managing power system (power management software) comprising: determining net power consumption of an application from power data supplied to an operating system (e.g. [0274]-[0277]), determining a systematic error of power data used to determining the net power consumption (e.g. [0118], [273]-[0275]).

Regarding claim 30, Potega discloses determining system error (power supply error [0118]) comprise determining an update granularity of power data (power supply data update by software, [0431]).

8. Claims 9, 11, 12, 21, 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thelander et al. (US 2003/0009705) in view of Potega (US 2003/0085621) as applied to claims 1, 18 above and further in view of Culbert et al. (US 5,600,841).

Regarding claims 9, 21, the combination of Thelander et al. and Potega discussed supra, disclose the claimed invention except determining a systematic error of power data.

Culbert et al. teach determining a systematic error of power data (e.g. Col.7, lines 52-66).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to inform determining a systematic error of power data as taught by Culbert et al. in a method for managing power data of Thelander et al. in view of Potega for the purpose of providing a system for controlling power in electronic devices (Culbert et al., Col.1, lines 11-14).

Regarding claims 11 and 23, Culbert et al. teach generating an indication if the systematic error exceeds a predetermined value (e.g. Col.8, lines 8-12).

Regarding claims 12, 24, Culbert et al. teach providing a suggested run-time (e.g. Col.1, lines 41-47) to reduce the systematic error (e.g. Col.8, lines 8-12).

9. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thelander et al. (US 2003/0009705) in view of Ben-Meir et al. (USP 5,652,893).

Regarding claims 13, Thelander et al. teach a method for managing power data, comprising: collecting power data for a system running an application from an operating system over a first time period (e.g. [0056], [0058]-[0060]); collecting power data for the system in a baseline state from the operating system over a second time period (e.g. [0056], [0058]-[0060], [0093]); and determining a net power consumption of the application from the power data (e.g. [0056], [0093]).

Thelander et al. fail to teach determining whether the update frequency for the power data is sufficient.

Ben-Meir et al. teach determining whether the update frequency for the power data is sufficient (e.g. Col.17, lines 60-67, Col.18, lines 29-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to inform determining whether the update frequency for the power data is sufficient as taught by Ben-Meir et al. in a method for managing power data of Thelander et al. for the purpose of providing a automated, real-time, intelligent power management system (Ben-Meir et al., Col.2, lines 65-66).

Regarding claim 14, Thelander et al. teach the first time period and the second time period are of equal duration (e.g. Fig.4).

Regarding claim 15, Ben-Meir et al. teach teach transmitting an indication that the power data is invalid if the update frequency is insufficient (e.g. Col.18, lines 53-64).

Response to Arguments

10. Applicant's arguments filed 03/27/2006 have been fully considered but they are not persuasive.

-Applicant argues that the prior did not teach "a data retriever unit to retrieve power data from an operating system by a battery; and a data processor unit to determine a net power consumption of an application from the power data" as cited in claim 25.

Examiner position is that Thelander et al. teach a data retriever unit to retrieve power data from an operating system by a battery; and a data processor unit to determine a net power consumption of an application from the power data as discussed above.

-Applicant argues that the prior did not teach, "power data supplied to an operating system by a battery where the power data comprises power capacity and drain rate data of the battery" as cited in claim 26.

Examiner position is that Thelander et al. and Potega teach power data supplied to an operating system by a battery where the power data comprises power capacity and drain rate data of the battery as discussed above.

-Applicant argues that the prior did not teach, "a data evaluation unit to determine a systematic error associated with a run-time for the power data" as cited in claim 27.

Examiner position is that Thelander et al. and Potega teach a data evaluation unit to determine a systematic error associated with a run-time for the power data as discussed above.

-Applicant argues that the prior did not teach, "determining whether the update frequency for the power data is sufficient" as cited in claim 13.

Examiner position is that Thelander et al. and Ben-Meir et al. teach determining whether the update frequency for the power data is sufficient as discussed above.

Conclusion

11. Specifically 35 U.S.C. 101 has been added to other ground of rejection.

Contact Information

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John H. Le whose telephone number is 571 272 2275. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on 571 272 2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John H. Le
Patent Examiner-Group 2863
June 5, 2006

BRYAN BUI
PRIMARY EXAMINER